

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DAVID KOLSTAD,

Plaintiff

v.

**DURHAM TRANSPORT EXPRESS,
LLC and RICKY RAY BLOUNT,**

Defendants

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Case No. 1:20-CV-752-RP

ORDER

Before the Court is Defendants Durham Transport Express, LLC, Incorrectly Named Durham Transport LLC, and Ricky Ray Blount’s Motion to Compel Billing Records from St. David’s South Austin Medical Center, filed October 25, 2021 (Dkt. 23). On November 5, 2021, the District Court referred the motion to the undersigned Magistrate Judge for disposition, pursuant to 28 U.S.C. § 636(b)(1)(A), Federal Rule of Civil Procedure 72, and Rule 1(c) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas (“Local Rules”).

Plaintiff David Kolstad alleges that he was driving his pickup truck pulling a trailer on Interstate Highway 35 in Travis County, Texas, on January 7, 2019, when he was struck from behind by a commercial tractor-trailer operated by Ricky Ray Blount. Dkt. 6 ¶ 6. Plaintiff alleges that Blount was operating the vehicle in the course and scope of his employment with Durham Transport Express, LLC (“Durham”) at the time of the collision.¹ *Id.* Plaintiff alleges that he “suffered severe bodily injuries to his head, neck, back, and other parts of his body generally and, as a result, he suffered shock to his entire nervous system.” *Id.* ¶ 16.

¹ Plaintiff’s state court petition incorrectly referred to Durham Transport Express, LLC as “Durham Transport LLC.” Dkt. 1-5. Plaintiff’s “Original Complaint After Removal by Defendants” names the correct corporate defendant. Dkt. 6 ¶ 2.

Plaintiff filed this negligence lawsuit in state court against Defendants Durham and Blount on June 15, 2020, seeking to recover over \$1 million in damages for past and future medical expenses, lost wages, loss of earning capacity, physical pain and suffering, physical impairment, and physical disfigurement. *Kolstad v. Durham Transport LLC*, No. D-1-GN-20-003159 (126th Dist. Ct., Travis County, Tex. June 15, 2020). On July 16, 2020, Defendants removed the case to federal court based on diversity jurisdiction. Dkt. 1.

In their Motion to Compel, Defendants seek an order compelling Plaintiff to produce billing records from St. David's South Austin Medical Center. Defendants state that they have requested copies of Plaintiff's medical billing records under Federal Rule of Civil Procedure 26(a) multiple times, but Plaintiff has not provided them. Dkt. 23 ¶¶ 5-6. Plaintiff has not filed a response to Defendants' Motion to Compel.

Local Rule CV-7(d)(2) provides that a response to a discovery motion shall be filed not later than 7 days after the filing of the motion. Thus, Plaintiff's response to Defendants' Motion to Compel was due on November 1, 2021. Local Rule CV-7(d)(2) further states that, if no response is filed within the prescribed time period, the court may grant a motion as unopposed.

Accordingly, pursuant to Local Rule CV-7(d)(2), the Court **GRANTS** as unopposed Defendants Durham Transport Express, LLC and Ricky Ray Blount's Motion to Compel Billing Records from St. David's South Austin Medical Center (Dkt. 23).

IT IS FURTHER ORDERED that this case be removed from the Magistrate Court's docket and returned to the docket of the Honorable Robert Pitman.

SIGNED on November 9, 2021.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE